

NORTHERN DISTRICT OF TEXAS

**FILED**

FEB 19 2010

**CLERK, U.S. DISTRICT COURT**

By \_\_\_\_\_ Deputy

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

WILLIAM ALLEN ROSS,

Petitioner,

VS.

RICK THALER, DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
CORRECTIONAL INSTITUTIONS  
DIVISION,

Respondent .

[illegible]

NO. 4:09-CV-574-A

ORDER

The petition for writ of habeas corpus filed by petitioner, William Allen Ross, under 28 U.S.C. § 2254 was referred to United States Magistrate Judge Charles Bleil for findings, conclusions, and recommendation. On December 16, 2009, Judge Bleil filed his findings, conclusions, and recommendation. He recommended that the petition be dismissed without prejudice, except as to any application of the federal statute of limitations or other federal procedural bar that may apply. The recommendation was based on Judge Bleil's conclusion that petitioner has failed to exhaust his state court remedies and Judge Bleil's findings that petitioner did not directly appeal from his conviction and has not filed with the state court any post-conviction application seeking state court habeas corpus relief. Judge Bleil concluded

that because the Texas Court of Criminal Appeals has not been afforded a fair opportunity to consider the merit of petitioner's claims, the claims are unexhausted for purposes of federal habeas review.

Judge Bleil informed petitioner that he had until January 6, 2010, to file any written objections to Judge Bleil's proposed findings, conclusions, and recommendation. On December 28, 2009, petitioner filed what he referred to as an answer to Judge Bleil's findings, conclusions, and recommendation. The document filed by petitioner does not inform the court of any facts that would cause Judge Bleil's recommendation not to be appropriate and proper. Therefore, the court adopts Judge Bleil's proposed findings, conclusions, and recommendation. Accordingly,

The court ORDERS that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 be, and is hereby, dismissed without prejudice, except as to any application of the federal statute of limitations or other federal procedural bar that may apply.

SIGNED February 19, 2010



JOHN MCBRYDE  
United States District Judge